

INCOME TAX EVASION :  
THE TAXPAYER'S POSITION.

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**THE CORPORATION PROFITS TAX.**

**THE E.P.D. WINDING-UP PROVISIONS.**

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## FOREWORD.

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**T**HIS little book is an intimate, if not a profound, study of the relationship between the Inland Revenue and the taxpayer.


It is not easy for the taxpayer to enter into the psychology of the Inspector of Taxes or the problems of Inland Revenue administration; nor is it easy for the Inland Revenue official, with his assured position and pension, to appreciate the effect of high taxation upon the taxpayer who is dependent on the sensitive and elusive thing called profits. The attempt is made in these pages to help the taxpayer and the tax-gatherer to understand each other.

The question of income-tax evasion is explored, and it is suggested that if properly approached, the Inland Revenue should not, and, indeed, would not, take proceedings against the delinquent taxpayer, who is willing to make a fair and adequate payment in respect of his hidden debts to the Crown. The sinner is invited to come to repentance—on a cash basis.

The distinction is clearly drawn between evasion, which is fraudulent, and the legal limitation of liability, which is intelligent. The Inland Revenue themselves can enjoy a contest on a question of principle; what they do not enjoy, and what the public, in its own interest, should endeavour to protect them against, is the concealment of facts.

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## CHAPTER I.

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### **The Problems of Taxation.**

Toward the end of 1920 I wrote a series of articles for *The Financial Times* on the problem of taxation as it presented itself at that time.

The salient facts then were that, somehow or other, the excess profits duty had to be got out of the way, and that as the remaining sources of revenue were inadequate to meet the demands upon the Exchequer, a substitute for the excess profits duty would have to be found. Among the many substitutes suggested was a sales tax, a tax on turnover; but that tax, on investigation, proved to have nearly all the characteristics which a tax should not have, and but few of the characteristics which a tax should have. From any sales tax, necessities must be exempted; what is then left is a luxury tax; and a luxury tax produces anything and everything but a large revenue. As regards the moderate success of the tax in Canada, the conditions of commercial life in Canada are not comparable with conditions in this country. For example, the exports of Canada are mainly exports of commodities exempted from the tax. Canada is not a criterion; and to my mind the arguments against the turnover tax are decisive.

It is, of course, very easy, quite popular, and not a little comforting, to abuse the income-tax, but no Chancellor in this country can usefully look at a revolutionary theory of taxation, inasmuch as it is sure to conflict with elements which, in the course of years, have become crystallised and practically immovable in our fiscal system.

The income-tax is the backbone of our system of direct taxation. It has grown relentlessly through long years from a small but hardy and tenacious root. It has been copied, it is being copied, and it will probably continue to be copied by other States. It has many imperfections, and many of them will remain, even when effect shall

have been given to the recommendations of the Royal Commission on the Income-tax. But in the main it is sound, and what is still more to the point, *it works*. It can safely be taken as axiomatic that no normal Government in our time will try to dispense with it, or to make any really radical alteration in its structure. The colour of the paint may be varied, the slates on the roof may be changed for tiles, an extra room may be built out, but that is all—the income-tax will remain, and profits will continue to be ascertained for taxation purposes as the Income Tax Act of 1918 says they shall be ascertained. No useful purpose can, in my opinion, be served by devising schemes of taxation which proceed on the assumption that the income-tax can be abolished or ignored.

Now the question of taxation to-day, though apparently even graver in some of its aspects than it was in 1920, is really simpler than it was then. There is no longer any question of finding a substitute for the excess profits duty. There is no longer any question of considering the taxation of war wealth, or any other form of capital levy. The slump has clearly shown that no form of capital levy could have been collected, because the capital had evaporated long before the reservoirs and conduit pipes could have been constructed and laid down. Since 1920 we have become wiser if sadder people; we are sadder because we violated certain essential principles of taxation, and we are wiser because we know why we are sadder.

It has taken a world slump to prove that to increase the income-tax by a certain number of pennies in the £ is not necessarily to increase the total yield of the income-tax by a certain number of millions. Indeed, we now realise that an increase in the rate of the tax may be attended by a decrease in the amount collected. The only feasible way in the long run of obtaining a high yield of revenue is to adopt a rate of tax which will not impede initiative and enterprise, and will allow the cumulative growth of the fund out of which alone taxation can continue to be paid. We are now wise on that point. We have also learned another lesson, and even

the Government appears to have learned this other lesson—the lesson that if economies have to be made, they always can be made. Undoubtedly economies are now being made, but they must be made incessantly, progressively.

In these circumstances, the national mind and the national will must be directed—always and everywhere—toward the stimulation of industry and trade by every available method which is well founded. Direct taxation must be revised. And the Chancellor's starting point in the revision must be, not "Can I afford to dispense with this tax?" not "Can I afford to reduce that tax?" but "This tax is harmful and I am going to abolish it." "That tax is too high, and I am going to reduce it."

It is now generally recognised that the corporation profits tax is a second-rate tax. When it was put forward it was thought necessary to recommend it on a variety of grounds. But what a tax must have if it is going to live is one sound foundation; it is futile to try to hold it up with half-a-dozen different supports. Mixed principles in taxation are as vicious as mixed motives, or mixed drinks, in life. Now the corporation profits tax was launched on three main pretexts: (1) as a discipline to those businesses which, it was then thought, had not been hit hard enough by the excess profits duty; (2) as a discipline to those private limited companies whose members avoid super-tax by not dividing their profits; and (3) as a tax on all limited liability companies in return for the privileges exclusively conferred upon them by the Companies Acts. Of these pretexts the first has ceased to have any value; the second never had more than a slight value; and the third—really the only serious ground—is open to many grave objections of principle.

Of those objections one is perhaps enough in these days to show that the withdrawal of the tax is necessary. When the corporation profits tax was introduced the "privileges and environment of limited liability" were spoken of as though they were something which companies enjoyed almost illicitly, something to which they

had no natural right, something which had really been filched from the community; but the fact is that the "privileges and environment of limited liability" were offered to the business world for the purpose of promoting business. They were accepted and utilised by the business world for that purpose, and it is subversive of the whole aim of the Companies Acts to discourage the use of those Acts by imposing a profits tax in respect of such use. The trading position of this country expanded as it did, largely owing to the trading facilities flowing out of the adoption of the principle of limited liability; the corporation profits tax places a clog on those facilities at a time when everything should be done, when everything must be done, to ease them and extend them. And I suggest that the corporation profits tax should be consigned to the lethal chamber.

Next in order, but even greater in urgency, is the necessity for reducing the rate of the income-tax. The income-tax at 6s. in the £ has been suffered too long already. It is a stranglehold on the life of the community; the community are gasping, they are almost defeated, and they must be relieved. At least a shilling in the £—more if possible—must come off the income-tax.

The question then arises: How is the national expenditure to be met? The answer is that the national expenditure must be reduced, and reduced until it comes within reach of such revenue as can be collected on the basis of a scheme of taxation which shall contain no corporation profits tax and a materially reduced income-tax.

In my opinion the corporation profits tax could be abolished and the income-tax reduced without involving any appreciable diminution in the national revenue.

This matter, which involves certain questions of administration, is one which is largely in the hands of the taxpayer himself, as I shall endeavour to explain.

## CHAPTER II.

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### **The True Incidence of Fraud.**

The question of the evasion of the income-tax was considered at length by the Royal Commission on the Income Tax.

The evidence placed before the Commission was based principally on estimates of the position in 1917 and 1918, and it was of a somewhat conflicting character. A witness, speaking on behalf of the Association of British Chambers of Commerce, guessed that there was an annual loss of £8,000,000 of duty. The Association of Tax Surveying Officers guessed that "during the last few years" the loss in duty was as much as £100,000,000. Another witness guessed that the loss in duty was something like £30,000,000 a year, but while the official witness from the Board of Inland Revenue did not guess at all the actual loss, he suggested that with the aid of increased staff, improved administration and more stringent penalties, something between £5,000,000 and £10,000,000 more tax might be recovered.

In view, however, of the present attitude to Civil Service expenditure and of the scrapping of the Revenue Bill of 1921, the Inland Revenue will have to do without the increase of staff or the improved administration which its representative considered necessary; and I think that the problem must at all events be tackled on the basis that the official machine will remain as it is, and that the further powers of inquiry, scrutiny and penalty which were recommended by the Royal Commissioners are not likely to be available at any early date.

As regards the amount of tax which should, legally, reach the Revenue—but does not—it is, of course, extremely difficult even to guess. It is not impossible that it may far exceed in these days the highest estimate made before the Royal Commission; for unquestionably

the temptation to evasion and fraud is progressive whenever taxation persists at a crushing rate. It is true that the robustly honest man will continue to be honest irrespective of the continuity of the strain upon him; the continuity of the strain may, indeed, tone him up.

There is, however, a large, and I fear a growing, class of people who are not essentially dishonest, but who become more and more disposed to give themselves the benefit of the doubt. In this class the degree of moral obliquity ranges from the almost innocent to the almost fraudulent; and though in varying degrees these people may be less culpable than those who definitely cross the border-line, they are, in my opinion, responsible for by far the greatest leakage of revenue; moreover, they are the most troublesome because they are the most difficult to bring to book.

We know that beauty is in the eye of the observer, that taste is not susceptible of argument, that what is one man's food is another man's poison, that the sense of humour varies with the individual, and recently we have heard a good deal about the high doctrine of relativity; and we know, for example, that a tradesman who would never dream of giving his customers short weight or short change—quite apart from the danger of being found out—may yet pride himself on his "smartness" in defrauding—he will probably call it "diddling"—the Inland Revenue. Indeed, he will often so deeply pride himself on his smartness that he will not hesitate to proclaim the glad news to his friends, and sometimes his friends . . . but that is another aspect of human nature.

A somewhat similar type of mind finds it congenial never to pay for a first-class ticket at the booking-office, but always to travel first-class. This is the form of sport known as "diddling the railway company." Bodies corporate are apparently considered fair game.

Now, this light-hearted view of life and its responsibilities may appear to have a certain naive charm, but essentially it is a deadly and a despicable thing, and, far from being smart and amusing, it is unsportsmanlike



and thoroughly dull. James Taxshy, who underpays his income-tax, is not doing the jocular thing of "diddling the Revenue," though he in his smug dullness may see no further than that. What he is really doing is the despicable thing of robbing his fellow-man, John Citizen, who has, therefore, to pay six shillings in the £.

The whole position is habitually obscured by dragging the Inland Revenue into it. It is conceived as a comic game of hide-and-seek between the tax-payer and the tax-gatherer. It is nothing of the sort. The tax-gatherer is really quite outside the play. The only dramatis personæ are the taxpayers, James Taxshy and John Citizen, but James Taxshy will never realise this simple truth till John Citizen realises it.

It must be admitted that honest John always has been stupendously dull in this matter. He has never vividly seen the stark truth of it. He himself has never loved the Inland Revenue—nobody really loves the official in authority : that is natural enough—and whenever he has seen the Inland Revenue pocket being picked he has smiled without ever pausing to think that the so-called Inland Revenue pocket is not the Inland Revenue pocket at all, but his own pocket. If the contest were merely one between the taxpayer and the Inland Revenue, and the Inland Revenue were the unscrupulous tyrant of popular romance, I for one should enter the lists and join the baiting, but I confess that I do not like the idea of robbing the friends who dine with me, or even the idea of being robbed by the friends who dine with me. It is not at all a pleasant line of thought, but it is a line of thought which cries out for public recognition.

It is, of course, abundantly clear when the public consciousness is dulled on a vital matter of this kind that many contributory causes must have been, and must still be, at work.

## CHAPTER III.

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### **The Atmosphere of Fraud.**

The question of public opinion in regard to taxation is an interesting and a vital one. For example, public opinion was never behind the land values duties, and after eking out a costly and inglorious existence for a few tired years, they died. The excess profits duty, on the other hand, despite everything that has been said against it, was, in the main, backed by public opinion, and it served its immediate purpose. But the excess profits duty differed from the land values duties in many other respects: it was a war-time measure; it actually produced the revenue without which the war could not have been won; it was formidably demanded by labour. Yet notwithstanding all that can be urged in favour of the excess profits duty, notwithstanding—what I believe to be the fact—that it was a better way of raising a thousand millions than any other method, it has nearly all the features which tend to dull the taxpayer's conscience.

I would suggest that the more prominent among the elements which conduce to the formation of an atmosphere favourable to evasion and fraud are:—

- (a) The idea that the Inland Revenue is fair game—this idea flows largely out of the failure to realise the true incidence of evasion and fraud;
- (b) A high rate of taxation;
- (c) A heavy cost of living;
- (d) A trade boom (producing heavy liabilities), sharply followed by a slump in trade and in values (resulting in the evaporation of cash and the means to meet those liabilities);
- (e) A tax with a capricious, and hence an unfair, incidence;



- (f) A tax of a highly technical and complicated nature ;
- (g) The general conviction that evasion is being widely practised ;
- (h) The improbability of detection ; and
- (i) Any harshness of administration.

Now all the first eight of these elements are unmistakably present in the case of the excess profits duty. I dealt with (a) ; (b), (c), (f), (g) and (h) " leap to the eye "—they need no comment ; (d) and (e) may, perhaps, be usefully elaborated.

The capriciousness and consequent unfairness of its incidence has always been a serious blemish in the excess profits duty. Had it not been a war tax I think one crude fault alone—the penalising of the man who had been unsuccessful before the war, as compared with the man who had been successful before the war—would have sufficed to make the tax unworkable. Indeed, except as a war tax, the Inland Revenue would never have put forward a proposal containing such a violation of first principles. But the war was a crude thing, involving crude measures ; the only justice that could be aimed at was rough justice, and the justice that was attained had frequently more roughness in it than justice.

The excess profits duty was never regarded as an ideal tax ; it was regarded—rightly, as I think—as the only practical scheme of immediately raising money on the grand scale that could be devised in the circumstances obtaining. But the end of 1919 was the very latest date up to which its mischief was tolerable. At that time two questions had to be considered by the Chancellor of the Exchequer. There was the question as to how long the boom was going to last. That question the Chancellor considered and decided wrongly. The other question was, could the prolongation of the tax be justified on grounds of what I may, perhaps, be allowed to call fiscal morality ? That question can hardly have been considered by the Chancellor, for had he considered it he must surely have abolished the tax at once, quite apart from any question of immediate financial expediency.

To that extent I think the Government have incurred a certain responsibility. And when, in addition to taking this false step, they withdrew from the income-tax certain reliefs which would have tempered the wind to the shorn lamb they showed a further cynicism which can hardly fail to have further deleterious reactions.

This question leads me to a brief consideration of the effect of a slump sharply following a period of boom. I do not propose to dwell upon this aspect of a painful subject; unfortunately it is unnecessary for me to try to make it clear. I merely refer to it in order to emphasise to official and academic readers how futile in taxation practice a perfect piece of taxation logic may be. In theory, if a person who earns £1,000 in the year 1922 pays tax for that year on only £100 (on the average basis) another person who earns only £100 in the year 1922 should pay on £1,000 (if the same basis of assessment works out at that figure).

In real life the second person simply hasn't got the money. And, in my judgment, there must always be in any system of direct taxation sufficient flexibility to meet this position, no matter how illogical it may be. An undue rigidity when taxpayers generally are suffering from conditions over which they have no control, is thoroughly bad in the long run for the State itself. It is, of course, true that any system of relief such as is premised in my doctrine of flexibility must cut into the revenue produced by the tax, but that truth simply means that the cost of concessions has to be borne in mind in considering estimates of yield.

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## CHAPTER IV.

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### **The Inland Revenue Machine.**

The Inland Revenue Department is one of the largest organisations in the world. Beside it almost every other Government Department or business concern, in no matter what country, is small; indeed, a business concern may, *quâ* business concern, be on an imposing scale and yet, *quâ* organisation, be insignificant when compared with the Inland Revenue.

The Inland Revenue Department is immense. It ramifies the whole of the British Isles; it has "on its books" literally millions of people, and it collects hundreds of millions of money every year. For instance, in the year ended the 31st March last it paid into the Exchequer £690,867,000, and in the two previous years £622,058,000 and £715,937,000 respectively—in a word, something approaching £2,000,000 a day. Moreover, its activities are manifold. It administers the estate duties, the stamp duties, the land tax, the inhabited house duty, the income-tax, the super-tax, the excess profits duty (and munitions levy), the land values duties (or what is left of them); it collects certain duties for other Departments, including the Customs and Excise, the Controller of Coal Mines, the Board of Trade, the Board of Intermediate Education of Ireland, the National Debt Commissioners, the Receiver of Metropolitan Police, the Stationery Office and the Post Office; and it does certain work for other Departments in connection with currency notes and the valuation of land and property. It has hundreds of offices and thousands of officials, yet the whole of its expenses represent less than 0.7 per cent. of the total revenue collected. For the year to March 1920, for example, the expenses amounted to £5,129,000—that is, 0.67 per cent. of the £715,937,000 collected.

Now, in giving this array of impressive facts, I am not moved by any feeling of reverence for magnitude—one

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is on the small side oneself. I bring out the size of the organisation in order to make it clear to the common-sense, if gentle, reader that a thing of such dimensions cannot be, always and everywhere, free from blemish. It must have faults. No matter how enlightened the Commissioners and their heads of departments may be, they have, after all, some of the faults of human nature, and it is fairly reasonable to suppose that human nature will not be expressed in its most perfect form in every one of the 10,000 members of the staff. Even Mr. Gordon Selfridge cannot fully infect every member of his selling organisation with that intimate insight, that cultivated manner, that supreme tact, and that Oxonian quality of mind, which form part of the equipment of the ideal shop assistant. Moreover, Mr. Gordon Selfridge has an enormous "pull" over the Commissioners of Inland Revenue in being able to give a pair of silk stockings or a heaven-spun jumper in return for the cash which he induces out of the public pocket into his own. Then, quite apart from the human aspect of the problem, there is the purely mechanical aspect, which again is essentially an aspect of the magnitude of the machine.

There are, I believe, at the present time some 1,800 inspectors of taxes in the United Kingdom and Ireland. These 1,800 inspectors of taxes have been grappling for several years with thousands of new points in the income-tax, the excess profits duty, and the corporation profits tax. It is abundantly clear that if such a huge machine is to work at all those 1,800 inspectors must necessarily be given some freedom of action, yet at the same time they must necessarily be kept in co-ordination and control. The merely mechanical difficulty involved here will be apparent to all business men. Now several really fine minds have applied themselves to this difficulty, and though they have not completely surmounted it, they never cease to work upon it and the results which have been achieved are little short of amazing. That at all events is my opinion, and that opinion becomes more pronounced as I look at the machine in the perspective, which can only be appreciated from an outside viewpoint, and as I compare the organisation with other large

organisations outside the Civil Service which I have fortunately had the opportunity of studying.

Now, these results have not been achieved merely by first-class mechanical organising—though that has played its part; they have been achieved largely through the vision and breadth of mind of the four gifted men who are known, and execrated, as the Board of Inland Revenue. Misrepresented by certain ignorant and partisan sections of the Press, misunderstood—perhaps naturally enough—by the public at large, they steadily pursue their course, consistently working toward one end—the efficient collection of revenue with the minimum of friction. Now, the securing of a suave administration was not always in the forefront of the Inland Revenue mind; the older school had rather the rigid view of doing its narrow duty and damning the consequences; and it is doubtless that now discarded attitude of mind which is responsible for some of the reactions of these days.

Of course, direct taxation must always be a painful thing, if not, indeed, a painful subject. And no matter how much of the *suaviter in modo* the official may be, he is not likely to worm his way deep into the great heart of the taxpayer. Nevertheless, it is to the interest of the taxpayer, not less than to the interest of the tax-gatherer, that there should be the closest possible *rapprochement* between the two. It may helpfully be borne in mind that the inspector of taxes is also a payer of taxes—and, almost inevitably, a payer of the whole of the taxes which he is liable to pay. . . . And if it is this fact which rather steels him against the “diddler” or the “wangler” I for one do not blame him.

At this point it is convenient to draw a clear distinction between two entirely different things which are often confused. In the one case the taxpayer evades a tax illegally; in the other case he sees to it that he pays no more than the law, when properly construed, imposes upon him. The simple distinction between the two things is that the one is fraudulent and the other intelligent.



As regards the evasion which is fraud, I have already written at some length, and I now propose to deal briefly with the manifestation of intelligence—without moral obliquity—in regard to taxation. As Lord Halsbury, in effect, pointed out, the relationship between the taxpayer and the Inland Revenue is governed by the law, and in their dealings with each other it is normally the law which they must invoke. It is not normally for either of them to endeavour to substitute for the law some canon of equity which the circumstances of the particular case may seem to require. And undoubtedly this must be accepted as the working principle, though there may conceivably be cases of exceptional hardship to the individual which stand on a somewhat different ethical footing from cases of exceptional hardship to the Inland Revenue. . . .

None the less, the powers of administrative concession allowed to the Inland Revenue are necessarily narrow, and the Commissioners are in no sense free agents. As I pointed out in my book on the Corporation Profits Tax, the Commissioners are advised by their own solicitor or—on the more subtle or important issues—by the Law Officers of the Crown, and they are practically bound to act upon the advice so given to them. Equally, the taxpayer has a perfect right to stand up for his own interpretation of the law, and if he is competently advised that his case is good he should (unless he can otherwise convince the Commissioners of Inland Revenue) invoke the machinery of appeal. It is true that the machinery of appeal cannot be worked without some expense—though the expense of appeals before the General or Special Commissioners is usually small—but conflict is unavoidable in all matters in which the construction of the law is involved; it is, however, essentially a conflict of the intellect, and there is really no room in it for passion or bad manners.

Another of the criticisms urged against the Inland Revenue officials is that they take advantage of the taxpayer's ignorance. If they do so, they do so in direct violation of the instructions issued to them; and as I have pointed out, neither the machine nor all the people in it

are perfect—not even since I left it. Inspectors of taxes differ, as shop assistants or bishops differ. But the criticism has much persistence behind it, and I propose to examine it in relation to the inspector's grievances against the taxpayer, or, rather, against some taxpayers.

It is of the utmost importance that the whole question of the relationship between the Inland Revenue and the public should be ventilated, so that each may know what are the real qualities and the real defects of the other.

## CHAPTER V.

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### **Who Would be an Inspector?**

Not long ago I had to see one of His Majesty's Inspectors of Taxes on my own account.

Now I remembered exactly what my official experience of His Majesty's Inspectors of Taxes—then merely Surveyors of Taxes—had led me to think of Inspectors of Taxes as a class, and of certain Inspectors of Taxes in particular. Roughly, I knew how much they know; indeed, I really knew "all about them." And even admitting that my knowledge of them had given me a certain respect for their knowledge of taxes, their experience of taxes and their efficiency at, with, or in, taxes, I had none of the diffidence which comes—to timid people at all events—when they are in the dark. At any rate, I had the advantage of knowing the worst.

Nor was that the only advantage I possessed over the taxpayer who has not been through the Inland Revenue mill; for not only did I know exactly where I was, and exactly where His Majesty's Inspector of Taxes must be, but I knew that, great as his capacity might be, it could hardly immeasurably exceed my own capacity for dealing with my own case. In a word, I was well trained, I was in good condition, my case was sound, I could argue it either forwards or backwards as might seem desirable. I could not be taken by surprise, and yet—and yet I frankly confess that I did not look forward to the interview. After all, the personage whom I was going to see was an official, nay, a bureaucrat, an Inspector of Taxes, nay, one of the King's own Inspectors of Taxes. There he was with his minions about him, and his forms and his phrases and his precedents and the official Juggernaut ready to move on at his caprice. . . .

That was the sort of melodramatic nonsense that suggested itself to the remnant of my mind. And it so



suggested itself because it is the sort of melodramatic nonsense which is current. There is no real reason why the prospect of meeting an Inspector of Taxes should not rather suggest to the taxpayer the idea of brotherly love, for, as I have previously pointed out, he is also a taxpayer, a fellow sufferer; but the other picture has become stereotyped, and it is difficult to get away from it. People continue to guffaw at jokes about mothers-in-law and the effects of strong drink. It is the same sort of thing.

Well, I had my interview with the Inspector of Taxes, and, to put it quite shortly, I disliked the fellow, I disliked his point of view, I disliked his manner, I disliked his face. I failed to agree with him on any one of the half-dozen points which had been outstanding, and I left him hoping that I should never see him again. I mentioned the episode to a friend who knew this particular representative of the Inland Revenue quite well. My friend was amazed. "But he's such a nice fellow," he protested. And my friend proceeded to support his view. Of course, the simple explanation was that the Inspector of Taxes and I had proved to be temperamentally opposed to each other. He had doubtless thought all the pleasant things about me which I had thought about him. There had been a clash of personality.

Now a few weeks later, having failed to settle the outstanding points by correspondence, I was invited to have another interview with the Inland Revenue representative. Nothing daunted I made an appointment. In due course I was ushered into the inspector's room, where I found, not my natural enemy, but another person—who might turn out to be my friend. The Inland Revenue had been performing one of its periodical shuffling operations. Instinctively I liked the new man. I liked his face, I liked his manner, I liked his point of view. In a quarter of an hour we reached agreement on all the outstanding questions. Two strangers had made friends. My excuse for this piece of autobiography is that it is typical of general experience. The personal equation comes into every phase of life, and it cannot be excluded from that phase of it which relates to taxation.

Let us look for a moment at the problem from the inspector's point of view. He has to deal personally with thousands of taxpayers, some of whom are quite honest, some just honest, some not quite honest, some less honest, others thoroughly dishonest; taxpayers whose circumstances are infinitely varied, whose intelligence ranges from zero upwards, and whose emotions range from boiling point downwards. He has to deal fairly with each one of those thousands of taxpayers, not only, moreover, with each one as an isolated individual, but with each one in relation to every other one. Moreover, he has to perform this task in such a way that his official superiors may be able to satisfy themselves that the task has in fact been performed. And he has to eat and sleep, and he may even have found time to get married. Falling off a log is undoubtedly simpler.

A.B., an honest citizen, goes to see the inspector. He is kept waiting because the inspector has discovered that C.D., whom he has always regarded as an honest citizen, has been giving himself somewhat large helpings of the benefit of the doubt. A quarter of an hour after the appointed time A.B., already irritated by the delay, is introduced to the inspector, already suspicious of the world at large. It is not necessary for me to continue the story. The reader can readily do that for himself.

Take another vignette. E.F. sees the inspector regarding an assessment and lays before him a complexus of facts and circumstances which does not appear to fit into the law and practice as understood by the inspector. The inspector submits the case, through the proper official channels, for the special consideration of the Board of Inland Revenue. The Board may take the advice of its solicitor, or even the law officers of the Crown, on the question. The advice may be that the legal position is obscure, and that in all the circumstances of the case the assessment might properly be vacated. In due course—which does not often mean by return of post—E.F. is notified that the assessment has been vacated. E.F., greatly delighted, spreads the glad news among his friends. And his circle of friends will

be a curiously restricted one if it does not comprise some one person who forms the conclusion that his own case coincides precisely with E.F.'s case. Take it that it is G.H. who forms the conclusion. G.H. now follows the procedure adopted by E.F., and, in due course, he receives the reply that the Board sees no ground for waiving its claim. Now there may be only a very fine legal line between the two cases, but this line, though fine, far too fine for G.H. to appreciate, may, nevertheless, be decisive. But G.H. will cherish a grievance against the income-tax and everything connected with it to the end of his days.

Now it may be that E.F.'s case will be considered to be of sufficient importance to be brought before all Inspectors of Taxes, and if so it will be included among the instructions or precedents issued to them from time to time. These instructions and precedents are given to inspectors as confidential official documents, and it is often urged that they should be made available to the public as well.

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## CHAPTER VI.

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### Official Secrets.

The Royal Commission on the Income Tax included in its report (Cmd. 615, 1920) a recommendation "that where it can be done without detriment to the public interest the general purport of the instructions issued to the Board's inspectors, in so far as they affect taxpayers, should be made available to the public."

From the evidence on this subject which was given before the Royal Commission I take the following extracts :—

From a statement put in by a witness as his evidence-in-chief (Minutes of Evidence, Sixth Instalment, paras. 24928 and 24929) :—

"In regard to the general question of administration of the income-tax, I beg to point out that under the existing system the officials of the Board of Inland Revenue attempt to obtain income-tax to which they are not entitled, and as the law stands, a member of the public has no redress against an official of the Board who demands, with threats, payments of income-tax not due. Four specific cases will be quoted.

"As it is the practice of the officials of the Board to ask for income-tax which is not due, a summary of decisions setting forth the practice of the Board of Inland Revenue should be available to the public."

From questions put to the witness by Commissioners, and his answers :—

WITNESS : This case was . . . a case of withholding repayment of income-tax. I had a sister who was in Germany during the war period. She applied for the repayment of the income-tax on certain foreign bonds which have been in my keeping. She went elaborately into the case with the local surveyor and supplied all the

particulars, and yet a letter was received from the local Surveyor of Taxes that no payment would be made. I saw the letter; it was referred to me. I wrote immediately to Somerset House to inquire on what Act of Parliament the Inland Revenue authorities relied for withholding the repayment of the income-tax. Then the case was opened up, and they began to ask questions, and the money was eventually paid on the instructions of Somerset House by the same Surveyor of Taxes who had absolutely refused payment.

A COMMISSIONER : I do not think the case at all justifies the allegation in your statement. In strict law a person who has not been resident in the United Kingdom is not entitled to relief which can be claimed on the ground of the smallness of the income. What happened, I take it, was this, that a case of hardship arose because people were abroad at the time of the outbreak of the war and were unable to return. . . . Therefore the rigour of the law was not properly applicable to them, and it was decided to concede that point.

WITNESS : All I can say is that there was a deliberate letter of refusal from the local Surveyor of Taxes, which I saw, and on my writing to Somerset House on the same facts the money was at once refunded.

A COMMISSIONER : That is rather a testimonial to Somerset House, I think, than otherwise.

A COMMISSIONER : The . . . case . . . was a concession on the part of the Inland Revenue authorities that the Surveyor of Taxes had no power to give.

The CHAIRMAN : Yes, that is the case.

WITNESS : The (other) case that I have in my mind is this, that after considerable trouble and being treated by two distinct methods I obtained a remission of income-tax on house property at Scarborough which suffered seriously during the raids. We were all appealed to to reduce our rents; I reduced my rent, and I obtained the concession after great trouble in regard to income-tax on the money that I received. I got it reduced, and last

January I received a demand note for the income-tax on the full amount without any previous communication to me at all.

A COMMISSIONER : On the full amount of what ?

WITNESS : On the full amount of the rent. Say the house had a rent of £24 ; it was reduced one-third. I got the income-tax reduced to the tax on the actual rent paid. That went on for two years, and I only got that after a great amount of trouble.

The CHAIRMAN : Was it a temporary reduction during the war ?

WITNESS : It was on account of the war. There was nothing stated to be temporary about it. Then, without any communication at all, last January I received a demand for the full amount. I wrote back to ask why I had received a demand for income-tax on the full rent, and then without any communication or any letter I received a demand for the reduced amount. If I had been a careless man, and had not happened to notice it, I should undoubtedly have paid income-tax which I was not called upon to pay. I had no communication and no inquiry whatever with reference to the matter. The increased notice was simply sent to me.

The CHAIRMAN : I ask you now, on these four cases that you have specified, you have no complaint as to the result of the action of the Inland Revenue ?

WITNESS : As to the final result, I have been successful in every case where I have had to deal with them.

A COMMISSIONER : I do not see that the surveyor was to blame, or whoever the official was, because the assessment reverted to its original position.

A COMMISSIONER : I do not suppose the *assessment* had ever been reduced. It would be the full annual value of the house, and when you showed that part of the rent had been given up for one year relief was granted, but the same thing in respect of the remission of rent would have to be repeated the next year, and as soon as you repeated it you got the relief.



I now take one or two short extracts from the evidence handed in as his evidence-in-chief by the representative of the Chartered Accountants of Scotland (Minutes of Evidence, Sixth Instalment, paragraph 25406) :—

Questions put to witness by Commissioners and his answers :—

A COMMISSIONER : In paragraph 16 you refer to publicity of decisions. You think that a decision by the Board of Inland Revenue should be intimated to all local surveyors, and should be published. That is rather a large order, is it not? That is to say, that any decision of principle arrived at by the local surveyors as regards depreciation, or as regards some question of reserves for losses in advance, should be set out for the public to read. It would be very apt to make the public rush in to claim similar deductions, would it not?

WITNESS : I did not mean that every decision on a particular case should be published, but rather that the general principles should be.

A COMMISSIONER : Arising out of the last question or two, your view is that where the Inland Revenue have definitely settled as to the interpretation of a clause in the Finance Act, or as to a change in practice, arising out of a legal decision, those should be made public? . .

Now these quotations illustrate the whole question. The evidence of the first witness appears to point, contrary to his intention, to the difficulty, rather than to the desirability, of publishing “special cases” broadcast, and shows the Board of Inland Revenue humanely doing the “square thing” in quite special circumstances of particular hardship.

The evidence of the second witness is of a somewhat general character. On the face of it, it is an attractive idea that the Board, while not publishing every decision in particular cases, should publish “decisions of principle”; but when one attempts to say what is a decision of principle one is confronted with grave practical difficulties. The greater one’s experience of the income-tax becomes, the more one realises its complexities, and the

more one appreciates the perils which beset attempts at paraphrasing the law and at stating its general principles. After all, the official and the lawyer must be exact, even if to be exact is to be unintelligible except to officials and lawyers. And my own view is that, if the Board had to give complete publicity to all their "decisions of principle," they would have either to go in for a hugely increased staff or go out of business; for even if they could state their decision with sufficient exactness to protect themselves against their decision being misconstrued, their statement would be too incomprehensible to the ordinary mind to have practical value; and if they were to state their decision with sufficient dash to appeal to the popular imagination, the number of Commissioners would have to be extended from four to forty, and the staff of officials increased correspondingly. A large department would be necessary to essay the thankless and impossible feat of explaining to a thousand claimants how, where, and why their case did not fall within Precedent No. 1,000,001. And at a time when economy of Civil Service administration is being demanded, and quite properly demanded, such a departure seems thoroughly undesirable.

In my judgment this particular administrative problem must be solved on other lines. I subscribe to the pious recommendation of the Royal Commission which has been quoted, and so, doubtless, do the Board of Inland Revenue. But the real solution of the problem lies in the cultivation of that closer and better understanding between taxpayer and Inspector of Taxes which I have previously urged on other grounds. The Board must for ever pursue their policy of encouraging in their Inspectors an attitude of helpfulness to the honest taxpayer, and even to the "diddler" or "wangler," if he shows any disposition to shed his trickery and behave as a reputable member of society. Goodwill is the real solvent of most of these troubles.



## CHAPTER VII.

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### **The Board and the Backslider.**

I have before me the reports of the more recent cases in which the Commissioners of Inland Revenue have obtained convictions against taxpayers who, by fraudulent means, have succeeded up to a point in paying conspicuously less income-tax or excess profits duty than they should have paid, either from a legal or a moral point of view.

The cases make sordid and painful reading. They reveal varying degrees of skill, clumsiness, and turpitude, and they show the processes of detection working in different ways. They reflect the never-ceasing race between the crook and the detective, the safe-breaker and the safe-maker.

The really crude way of defeating the Inland Revenue, or, rather, one of the really crude ways, is the simple device of giving wrong figures. You just lie, and that is that. If, however, your view of life is not quite so simple, you proceed to give verisimilitude to your lie by telling ancillary and contributory lies. You keep two sets of books, one for the Inland Revenue, the other for yourself. Or, like the rhetorician, you may go further, you may keep three sets of books, one showing the actual profit for yourself, another showing a negligible profit for the Inland Revenue, and a third showing an inflated profit for your bankers. This form of bookkeeping by double or triple entry appears to be much favoured by some people, and it has the merit of allowing the punctiliously honest man who wishes to sell his business to disclose a perfect set of accounts to the purchaser. . . . If, however, you do not like the complication of two or three sets of books, you may juggle with your stock. You may buy an expensive car for your private use, and charge it in your business accounts as trading stock; or

you may sell your goods and forget to enter the sale at all. You may . . . but there are endless ways of doing it, and nobody need be bored by the monotony of the thing.

But as there are endless ways of doing it, so there are also endless ways of "spotting" it, and as time goes on even those simple souls called inspectors of taxes become curiously knowing and alert. Men have been known to boast to other men about "diddling the Revenue"; clerks have been known to see things and to say things; people have been known to write anonymous letters. . . . And apart from this aspect of the matter, the inspector is not quite so cut off from the currents of life as appears to be imagined. He is not really the hide-bound ass which he is so often supposed to be. He is usually a social creature mixing with his fellow men; he may be tempted to wonder whether A.B. is really as poverty-stricken as he appears to be, or how C.D. manages to live like a prince on a few hundreds a year. . . . Indeed, I will take the risk of committing some offence under the Official Secrets Act, and I will confess that in my own official *naïveté* I used often to wonder how one could "live the life" as it was lived by certain baffling people, on practically nothing a year.

Now it is far from my intention to suggest that every person who seeks to defraud the Revenue is lacking in skill or ability, and that every Inspector of Taxes is not only the latest thing from Somerset House, but is at the same time the latest thing from Scotland Yard. I would not wilfully offer an affront to the skill of any really competent crook: I know how sensitive human nature at its finest can be. But I do wish to make it clear that the Inland Revenue officials really do know quite a good deal about the methods of evasion, and that while a person here and there may succeed in fooling them all the time, tax-dodging in general has an extraordinary way of "coming home to roost" sooner or later.

So much for the chances of being found out. I now pass to another practical aspect of the question—the moral and psychological aspects have already been discussed. In the first place let me summarise the powers

which the Commissioners of Inland Revenue may use against the delinquent. The provisions against evasion fall into two classes : A, criminal proceedings, and B, pecuniary penalties.

#### *A—Criminal Proceedings.*

(1) Section 5 of the Perjury Act, 1911 (which, however, does not apply to Scotland or Ireland), provides that if any person knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made "in an abstract, account, balance-sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest or verify, by any public general Act of Parliament for the time being in force," he shall be guilty of a misdemeanour and be liable on conviction to imprisonment with or without hard labour for any term not exceeding two years or to a fine, or to both such imprisonment and fine.

(2) Section 227 of the Income Tax Act, 1918, imposes a penalty on summary conviction of not exceeding six months' imprisonment with hard labour for false returns or claims, either on the person's own behalf or for another person. This course involves a prosecution within six months.

(3) Apart from the Perjury Act, the delivery to an Inspector of Taxes for income-tax purposes, and with intent to deceive him, or a taxing authority, of a false account or document, is a misdemeanour at common law.

(4) Conspiracy between two or more persons to defraud the Revenue is also a misdemeanour at common law, rendering the parties liable to imprisonment or fine or both.

#### *B—Pecuniary Penalties.*

The pecuniary penalties imposed by the Acts may all be recovered within three years after they are incurred (Section 221 of the Income Tax Act, 1918) and are as under :—

*Omission to Make a Return :*

(1) Section 107 (1) of the Income Tax Act, 1918 : Not exceeding £20 and treble duty if proceedings are before the General Commissioners; £50 in the High Court.

(2) Section 126 (1) of the Income Tax Act, 1918 : Inspector of Taxes may surcharge taxpayers not already assessed. Surcharges confirmed on appeal carry treble duty, unless, as provided by Section 137 (6) of the Income Tax Act, 1918, the Commissioners are satisfied that there is no intention of fraud.

(3) Section 146 of the Income Tax Act, 1918 : Commissioners, on appeal or on confirmation of assessment, can impose treble duty. This is equivalent to, but is not technically, a penalty.

(4) Section 100 of the Income Tax Act, 1918 : Not exceeding £5 if party proceeded against proves that he is not chargeable to tax.

*False Return :*

(5) Section 107 (1) of the Income Tax Act, 1918 : The delivery of a false return exposes a taxpayer to the penalty for failure to make a true and correct return (*Lord Advocate v. A.B.*, 3 Tax Cas. 617) *Attorney-General v. Till*, 5 Tax Cas. 440). The penalties are the same as in para. B. (1) above.

(6) Section 132 of the Income Tax Act, 1918 : If not already charged, assessment to be made in treble duty. If assessment insufficient, treble on deficiency to be charged.

(7) Section 146 of the Income Tax Act, 1918 : The Commissioners, on appeal or on confirmation of an assessment exceeding the amount returned, can impose treble duty on the deficiency.

*False Claim of Abatement or Other Relief :*

(8) Section 30 of the Income Tax Act, 1918 : £20 and treble duty on the whole income as if such claim had not been allowed. Proceedings in the High Court. The Court has no power to mitigate this penalty.

(9) The penalty for aiding and abetting a false return or claim is £50 for each offence.

(10) Section 140 of the Income Tax Act, 1918, provides power to amend statements or schedules on an appeal :

“(1) A person who has delivered a statement or schedule and discovers any omission or wrong statement therein, may deliver an additional statement or schedule rectifying the same, and shall not thereafter be liable to any proceeding by reason of his omission or wrong statement.

“(2) A person who has not delivered a statement or schedule, within the time limited, may deliver it at any time before proceedings for recovery of a penalty, incurred in respect of such non-delivery, have been commenced, and thereafter no such proceedings shall be taken.”

The claim is sometimes advanced that if an amended return is made at any time before proceedings are actually instituted no penalty can be exacted, but inasmuch as the Section requires discovery on the part of the taxpayer, which is held to involve voluntary disclosure and an absence throughout of deliberate fraud, the claim is seldom successful (*Attorney-General v. Till*, 5 Tax Cases 440). Moreover, where fraud can be proved, the provisions of the Perjury Act, 1911, quoted above, provide an additional remedy.

The question of voluntary disclosure is one of considerable interest and importance both to the taxpayer and the Inland Revenue, and I propose to deal with it in relation to the attitude adopted by the Commissioners to the person who, by accident or design, has not paid taxes to the extent of his liability.

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## CHAPTER VIII.

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### **The Royal Commission and the Backslider.**

The Royal Commission on the Income Tax heard a good deal of evidence relating to the many aspects of evasion and fraud, and it took a serious view of "persons whose sense of citizenship is imperfectly developed." It recommended :—

(a) That, if required, the taxpayer should be obliged to state whether or not he keeps books, whether they are audited, and if audited by whom ;

(b) That the Schedule D return form should require a copy of the taxpayer's own calculations showing how the amount returned has been arrived at ;

(c) That accountants furnishing accounts for clients for income-tax purposes should on the request of the inspector give a certificate showing the extent and nature of their audit ;

(d) That the certificate now generally in use in regard to stock valuations should be made statutory and apply to all commercial businesses—that is, to all businesses other than that of agriculture—and that the basis on which a trader should value his stock for income-tax purposes should be defined ;

(e) That a firm's return should be signed by the precedent acting partner resident in the United Kingdom and by one other partner so resident, and that a company's return should be signed by its chief executive officer, as well as by the secretary or other person now liable by statute to make the return ;

(f) That the assessing authorities should have power to require the production of accounts in support of a return where accounts are in existence or books have been regularly kept. The accounts should be fully certified by the taxpayer, and should include both



profit and loss accounts and balance-sheets. If the accounts have been audited they should be certified by the auditor as well as by the taxpayer;

(g) That the assessing authorities should have power to call for any further documents or information in connection with a return; and that they should be further empowered—subject to the right of the taxpayer to appeal on the point to the Special Commissioners—to direct the production and examination of the original books of account (including stock sheets) belonging to the taxpayer;

(h) That banks should be required, on receiving a request from the Inspector of Taxes, to say whether or not any particular person has an account with them;

(i) That all departmental and public information as to contracts should on application be given to the assessing authorities;

(k) That the assessing authorities should have power to examine books and documents in the hands of paying agents in connection with the assessment of foreign dividends and remittances;

(l) That the existing time limit of three years within which proceedings may be taken to recover penalties should be extended to six years;

(m) That the penalties recoverable in the High Court should be increased to correspond with those that can now be imposed by the Commissioners;

(n) That the penalty for a false return by a limited company should be recoverable from the company itself or from its directors or secretary, and that the penalty for a false return by a firm should be recoverable either from the partnership as a whole or from the precedent acting partner or any partner who in fact made the return; provided that no penalty shall be recoverable personally from a person who is proved to have had no knowledge of the falsity of the return;

(o) That the offence of making an incorrect return should not be capable of being purged by the belated

rendering of a correct return, if the taxpayer is not able to show that the error in the original return was due to a *bonâ fide* mistake.

(p) That the penalty for aiding and abetting should be made more severe.

The Commission expressed the view that if those recommendations were carried out, inaccuracies in returns, whether accidental or intentional, would be reduced to such an extent that "additional revenue, amounting to £7,000,000 or £8,000,000 a year," would be obtained. (In my own view that estimate is far too low.)

Then the Report strikes a new note. It goes on to say that "an even greater amount might be immediately recovered if it were enacted that the more stringent penalties . . . should not become operative for some period, such as a year, after they are first embodied in a Statute. There may be persons," the report goes on, "who are anxious to set right defaults of past years, and who would do so if they were not too afraid of their legal liabilities to take any steps towards rectification." The Commission then state that any such suspension of proceedings should be made conditional on all losses, with interest, being made good to the Revenue.

On this very human phase of the question there are two schools of thought. One school takes the view that a very large number of people would come out into the open and make restitution if they felt sure that they would not be made the subject of proceedings. The other school does not believe in the existence of any great body of taxpayers anxiously awaiting the opportunity of blotting out their sins.

I would say that it is quite simply a question of terms. It depends on how deep the Inland Revenue would wish to cut into the taxpayers' financial resources. If the Inland Revenue were to offer to whitewash volunteers on payment of one year's duty in full, they would soon be very busy. If, on the other hand, they were to insist on complete restitution—that is, payment of the whole of the tax underpaid, plus interest thereon, as recom-



mended by the Royal Commission—very few sinners would come to repentance in these days of trade stagnation and almost universal shortage of cash, when a large proportion of business men are only solvent by sufferance. This may be regarded as a cynical view of the position. Nevertheless, it is futile to look at facts as they are not. After all, we are now considering the purely financial side of the problem. We are considering the terms of a bargain. *Ex hypothesi*, we do not insist upon the element of moral obliquity. The taxpayer wants to make a fresh start. The State wants his money. If the State wants too much of his money he may continue to want to make a fresh start. . . .

That, as I see it, is the position in its stark outline. Therefore, the State should not open its mouth too wide. One cannot lay down what is the ideal width; to some extent each case must necessarily be considered on its merits, and by the expression "its merits" I mean such elements as the taxpayer's ability to pay and the sum lost to the Revenue, rather than the moral aspects of the question. Of course, there may be cases which cannot in any circumstances be met by compromise. But taxation is so very heavy and so very complicated in these days that generous allowances may properly be made; and where a taxpayer comes forward with a full and frank disclosure, an enlightened administration is little likely to put obstacles in the way of a fair and feasible settlement. So far as I am aware, proceedings have not been taken by the Inland Revenue in any case in which a full and frank disclosure has been made by the taxpayer himself. I am not absolutely certain of it, but I have it in mind that this very point was made on behalf of the Crown in one of the taxation fraud cases which have been before the Courts in recent years.

In these circumstances my own view is that the taxpayer who has been giving himself too much of the benefit of the doubt would be well advised to consider very carefully whether the present time is not an opportune one for ridding his mind of what must always be a troublesome element, and what may at any moment become a nightmare.

## CHAPTER IX.

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### A Recapitulation.

The position which I have sought to establish may be summarised as follows :—

1. The Government must entirely give up its habit of doing things merely because they seem desirable and in the hope that the money will be forthcoming somehow or other. The first and the fundamental question which the Government has to decide is not how much it would like to spend, not how much it is going to spend, but how much revenue can be raised without crippling the trade and the life of the country.

2. In considering this question three points, among others, emerge :—

(i) These are not the times for experimenting with new-fangled taxes, such, for example, as the turn-over tax.

(ii) Existing bad taxes should be withdrawn—for example, the corporation profits tax and the entertainments duty.

(iii) The standard rate of the income-tax must be reduced by not less than 1s. in the £.

3. Having determined the amount of revenue which can properly be raised, the Government must shape its policy and its administration so that the money to be spent shall in no circumstances exceed the money to be received.

4. It is not merely that economies are desirable. Economies are essential. It matters not that they may be difficult to secure. They have to be secured, and it is futile to talk of difficulties.

5. The Government will contend that the income-tax cannot be reduced, and that the corporation profits tax

and entertainments duty cannot be abolished, unless further borrowing is resorted to. If this contention were sound, then I would submit that borrowing, if properly done and properly applied (for example, to such charges as war pensions, which are largely capital charges), would be a lesser evil than maintaining taxation on the existing scale; but I do not admit that the contention is sound, for in my view expenditure—even public expenditure—can always be cut. Moreover, I think that the country has arrived at a condition of mind in which it will insist upon the Government performing its elementary duty.

6. Starting with the premiss that 1s. in the £ must be taken off the income-tax, it has to be considered whether that reduction in rate must necessarily involve such a reduction in yield as official estimates would doubtless indicate.

7. In my view, if income-tax could be charged on the total amount of income legally liable to the tax, then a rate of 5s. in the £ would yield very little less than is yielded by a rate of 6s. in the £ under present conditions.

8. Evasion is popularly regarded as a clever or cunning move in a game played between taxpayers and tax-gatherers. It is really nothing of the kind. The introduction of the tax-gatherer into the picture obscures the perspective and gives the *couleur de rose* to fraud. Essentially, evasion is a nasty form of theft practised by one taxpayer upon another. The fact that nobody loves the bureaucrat is no reason why a man should rob his friends, or even his enemies. Evasion would be killed by public hostility if its true character were properly appreciated.

9. Among the many elements which operate to encourage evasion the following may be mentioned:—

(a) The idea that the Inland Revenue is “fair game.”

This idea flows largely out of the failure to realise the true incidence of evasion and fraud.

(b) A high rate of taxation.

(c) A heavy cost of living.

(d) A trade boom producing heavy liabilities, sharply followed by a slump in trade and in values, resulting in the evaporation of cash and the means to meet those liabilities.

(e) A tax with a capricious, and hence an unfair, incidence.

(f) A tax of a highly technical and complicated nature.

(g) The general conviction that evasion is being widely practised.

(h) The improbability of detection; and

(i) Any harshness of administration.

The above points raise the general question of the relationship between the Inland Revenue and the public.

10. The Inland Revenue Department is one of the largest organisations in the world. The four Commissioners who are responsible for its administration have introduced into it something of the Selfridge note. They may not have gone the whole way of proclaiming that the public is always right, but they have definitely thrown over the traditional official view that the public is always wrong. They encourage, so far as it is open to them to do so, a humane and an urbane administration. They instruct their inspectors of taxes to help the public and not to fleece them, and, generally speaking, they are ably supported in this attitude by their heads of departments. It is a vulgar error that inspectors of taxes are paid or promoted according to the amount of duty which they collect. None the less, the machine is far too large and complex, and the present administration is too new, to allow of perfection. The merely mechanical difficulties are immense, but they are small compared with the difficulties involved by the "personal equation." No two inspectors are alike, and no two taxpayers are alike; and in this simple truth there must always be the seeds of trouble. Obviously these difficulties can only be surmounted with the help of goodwill on both sides.

The attitude of "Don't shoot the pianist; he is doing his best," is worthy of the widest encouragement.

11. In administering the law the Commissioners come across many hard cases, and so far as they can properly treat them sympathetically they usually do so, but it must be remembered that their powers of administrative concession are slight, and that it is not in the public interest that they should be wide. There must always be cases of hardship in which the Commissioners are powerless to intervene, and the result is that the Commissioners must often be blamed for decisions and actions to which they are committed by their position.

12. The law relating to the income-tax is extremely and inevitably complicated. Its construction is always giving rise to difficulties, and I should be the last person in the world to deter the taxpayer from endeavouring to find in the statutes a proper construction favourable to himself. He is in theory taxed by the law, and as an intelligent person he must see to it that in practice he is not taxed on any more onerous basis. The Inland Revenue, on the other hand, must seek to administer the law as it understands it. It has the benefit of expert legal advice either from its own solicitor or the Law Officers of the Crown, and it is practically bound to follow that advice. It is not a free agent. It has no liberty of action, and unlike the business man it cannot compromise a claim where points of legal difficulty arise.

Now in these questions there is often so much to be said on both sides that it is impossible to say until the question has been decided by the House of Lords what the legal position really is, and the fact that the Inland Revenue loses a case in the House of Lords does not cast any reflection upon it or its legal advisers. Moreover, if the Inland Revenue took the individual taxpayer's point of view it would often do profound disservice to all the other taxpayers. There must be conflict on these legal questions, and often the conflict is one from which there can be no escape except via the Law Courts. This is, of course, another indication that life

is far removed from the ideal, but it is not a good reason for shooting the pianist.

13. The Commissioners of Inland Revenue have a charmingly detached attitude to legal decisions whether in their favour or against them, for their ambition is quite simply the common one of wanting to know where they are. If a judicial decision makes a hole in the yield of the tax that is not a matter which directly concerns them. It is a matter which directly concerns the Government of the day, and it is for the Government to decide whether fresh legislation shall be introduced in order to restore the depleted yield. The idea that such remedial legislation is an exhibition of official pique or retaliation is puerile.

14. It is necessary to draw a clear distinction between the taxpayer who seeks to reduce his liability by evasion and the taxpayer who seeks to reduce his liability by a proper interpretation and use of the law. The one is fraudulent, the other is intelligent. It is true that certain devices which are legal have about them a suggestion of moral obliquity, but the only practical line that can be drawn is the legal line, and if a taxpayer chooses to avoid super-tax, for example, by one or more of the several legal expedients open to him, he is not acting improperly. He is in a totally different category from the person who juggles with his accounts. I would have all taxpayers candid about their figures, no matter how cantankerous they may be about principles. One has a preference for fighting in the open.

15. The Royal Commission on the Income Tax considered specially the case of persons who had defrauded the Revenue, and they suggested that in certain circumstances it would be proper to give defaulters an opportunity of coming forward voluntarily without fear of being proceeded against. The Commission suggested that defaulters should be prepared to make complete restitution—that is, to pay the whole duty unpaid, plus interest thereon. In normal times this would not be too much to ask, but in these days, when so many people are merely solvent by sufferance, and have no means



whatsoever of obtaining cash, such an offer would hardly be likely to produce a large crop of volunteers.

The Inland Revenue itself has always taken a favourable view of the taxpayer who, though late in the day, has on his own initiative made a full and frank disclosure of the extent of his liability. Indeed, so far as I am aware, proceedings have not been taken in any case in which a full and frank disclosure has been made, and I believe that that point was made on behalf of the Crown in one of the taxation fraud cases recently before the Courts.

16. What the State wants at the moment is (a) money, and (b) honest citizens for the future; and from the State's own point of view it would be well in these days to adopt an attitude of clemency to the defaulter wherever the circumstances point to a real desire on his part to "play the game."

The Inland Revenue is very much alive to the devices which have been adopted by taxpayers for reducing their liability, and there are doubtless many uneasy people in the country. They should now carefully consider whether the present time is not an appropriate one for ridding their mind of a burden.

In my view the Inland Revenue is not lusting for prosecutions, and would not put obstacles in the way of a fair and feasible settlement, if properly approached.

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